



Minnesota Department of **Human Services**

April 3, 2015

Renville County Human Services
Renville County Government Services Center
105 South 5th Street, Suite 203h
Olivia, MN 56277

Re: Reconsideration Request in the Appeal of Leroy Vait
Docket No. 155286

Dear Renville County Human Services:

On January 20, 2015, the appeals office received your request for reconsideration of the December 23, 2014 decision in the appeal of Leroy Vait that reversed the Agency's denial of Appellant's application for Medical Assistance and payment of Long-Term Care Services. On January 30, 2015, the appeals office received a response to your request from the office of Long, Reher & Hanson, attorneys for the Appellant.

I am denying the request for reconsideration because there is no information in the request warranting change of the substantive decision. Furthermore, I have reviewed the decision, based on the record, in light of your letter and find that it contains no material factual or legal errors.

The core issue in this appeal appears to be how life estates are to be treated for purposes of determining the availability of Medical Assistance for long-term care. The Agency contends that life estates should be valued at the time of assessment of the spousal share under Minnesota Statute, section 256B.059, subdivision 2 *and* at the time of the determination of eligibility under Minn. Stat. §256B.059, subd. 5. The Appellant argues that the life estates should be valued at the time of assessment of the spousal share, *but not* at the time of the determination of eligibility for Medical Assistance.

This issue was addressed under nearly identical facts in *Larson v. Minnesota Department of Human Services, et al.*, No. 60-CV-13-465 (Polk County, 9th Dist., 2013). The court in that case found that a "life estate valued at the assessment stage is not valued when determining eligibility." *Id.* at 9. Although this case may not bind the Agency under the principal of collateral estoppel as argued by the Appellant, I concur in the court's statutory analysis. The decision in this case is consistent with *Larson* and is affirmed in all respects.

Please consider this letter final agency action for purposes of judicial review. This means that you have exhausted your remedies before this agency. If you choose, you may start an appeal in the district court. This is a separate legal proceeding, and you must start this ***within 30 days of***

the date of this letter by serving a notice of appeal upon the other parties and the Commissioner. The law that describes this process is Minn. Stat. § 256.045, subd. 7.

Sincerely,



Darwin J. Lookingbill
Director, Appeals Division

cc: Rosemary Vait for Leroy Vait, Appellant
Pluto, PLLC, Appellant's Authorized Representative
Laura Zdychnec, Long, Reher, & Hanson, Appellant's Attorney
David Torgelson, Renville County Attorney